



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,393	11/02/2000	Jeffrey W. Dlott	2266.002US1	7987

21186 7590 11/15/2006

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. BOX 2938  
MINNEAPOLIS, MN 55402

EXAMINER

FISCETTI, JOSEPH A

ART UNIT PAPER NUMBER

3627

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/705,393

Applicant(s)

DLOTT ET AL.

Examiner

Joseph A. Fischetti

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 16-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari et al. in view of Wendte et al. and Lindsey et al. (official notice)

Montanari et al. disclose receiving at a management information system a request for product information, the request including a product identifier (col. 17 lines 146 et seq. discloses P/R-TN identification used to get information from database); accessing a product record, identified using the agricultural product identifier, at the management information system, the agricultural product record including agricultural product data collected along a chain of custody of the agricultural product (P-TN will permit id of all information relative to purchase fabrication, feeding of the livestock); and communicating the product data responsive to the request (col. 17, lines 54,55- consumer is contacted and given a detailed report of the product's origin and processing e.g. metrics. Montanari et al. is read as disclosing a request made while the agricultural product is in the chain of custody because the contact to the consumer e.g. the response to a request is at a slaughter location read as within the chain of custody given that the carcass is still accounted for by the P-TN tag at that point.) Applicant argues that the consumer could contact the retailer and the retailer could contact the fabricator...to obtain the P-TN number to identify the animal and its associated data.... [requiring] the consumer first has to receive the product...". However, it is the Examiners' position that inherent/obvious at the point in time before the consumer (user) takes possession of the item but when retailer still

holds possession of the item (retail ready product), the information about the product identified by the L-PIN/P-TN is readily available to the retailer. Notwithstanding Official Notice is taken of the practice of the intermediate handler of a product e.g. the distributor and or retailer having request access to information about the product chain of title and information appurtenant to the product collected along the chain. See. Lindsey et al., e.g., database 25 is accessible by the broker throughout the chain of custody the motivation for applying this feature to Montanari et al is to insure the integrity of the product being purchased.

However, the Montanari et al. patent does not disclose tracking agricultural products nor does it disclose the real time generating of a report to a customer.

However, Wendte et al do disclose a real time agricultural sampling and reporting system col. 8 line 42. It would be obvious to modify the system of Wendte et al. to include the real time feature the motivation for this is that the system of Montanari et al. already inputs data into the computer database see col. 11 lines 18-20, and to do so in real time would add a higher degree of integrity to the data being received by the customer.

Re claims 3, 4 ,10: Wendte et al. disclose at col.8 lines 30-33 disclose communications computer network including a wireless data link e.g. a wireless network. Official notice is taken with respect to the remaining elements i.e., Internet, WAN, LAN and cellular, which are deemed old and notorious channels of communicating data. The motivation for using the wireless network of Wendte et al. is the current way of communicating data.

Re claim 5: See Montanari et al. col. 10, lines 19-27 for pre-production, production, environmental, processing, distribution information.

Re claims 6/7/8: see Montanari et al. col. 12 lines 34-44, for disclosure of accreditation of organic raised meat..

Re claim 9: the record in Montanari et al. created by the conformation information col. 12, lines 6 et seq. is read as markup language document including the agricultural product data.

Re claim 11: Montanari et al. col.11 57-59 discloses a telephonic device.

Re claim 12. the A-TN in Montanari et al. is inputted as of the product identifier into the communications device phone lines.

Re claims 13-15: see Montanari et al. see col. 9 lines 29-36 for various machine readable codes used in Montanari et al. e.g., A-TN and O-TN which are deemed the equivalent of a UPC and are bar codes see Fig. 1.

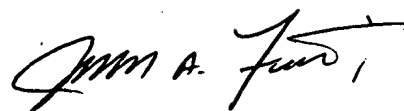
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Application/Control Number: 09/705,393

Page 5

Art Unit: 3627

Any inquiry concerning this communication should be directed to PRIMARY  
EXAMINER Joseph A. Fischetti at telephone number <sup>571 272-6780</sup> ~~(703) 305-0731~~.

A handwritten signature in black ink, appearing to read "Joseph A. Fischetti", with a stylized flourish at the end.

JOSEPH A. FISCHETTI  
PRIMARY EXAMINER